

England - Laws and Statutes - VIII
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OBSERVATIONS

A N D

REFLECTIONS,

On an ACT, passed in the Year,
1774,

For the SETTLEMENT,

Of the Province of QUEBEC.

Intended to have been then printed for
the Use of the ELECTORS of GREAT
BRITAIN, but now first Published.

By A COUNTRY GENTLEMAN,



L O N D O N:

Sold by J. STOCKDALE, opposite Burlington House,
Piccadilly. 1782.



INTRODUCTORY

PREFACE.

TH E following Observations on an Act of Parliament, passed in *June*, 1774, entitled, "An Act for making more effectual Provision for the Government of *Quebec*, in *North America*." were wrote in the latter End of that Summer; and intended for Publication previous to the Breaking up of the Parliament.

BUT that Parliament being suddenly dissolved, and much sooner than was expected; the Publication was at first deferred, and afterwards, for very obvious Reasons, entirely laid aside.

THE Reader will please to carry with
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him, during the Perusal of this Treatise, the Remembrance that it was wrote before the unfortunate War between this Country and her Colonies had broke out:—and also, that at that Time there was not the least Ray of those approaching Lights of Reason and Humanity, which have since, with so much Splendor, burst forth amongst some of the Princes of the Roman Catholick Persuasion—so highly conducive to the Advantage of their Dominions — to the Happiness of their Subjects — and so much to the Honour of Human Nature.

THIS must apologize for any Strictures with regard to Popery, which may appear too severe to some Persons ; as at that Time, with the Recollection of the Cruelties planned and executed by Papists ; with the Histories of SIRVEN and CALAS fresh in the Memory ; with Ideas of that diabolical Office of the Inquisition, no Man possessed of the least Share of Humanity, could write on such a Subject, without Expressions of Reprobation and Abhorrence ; and without
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cautioning his Countrymen against the Danger of Suffering the Followers of such a Persuasion, to gain too great an Ascendant. A happier and more pleasing Prospect, seems now to open on Mankind. God grant it may both continue and increase!

BEFORE I quit this Subject, give me Leave to state a few Quæries to my Readers, —

May we not be too sanguine in forming our Expectations, of what may follow, from the generous, humane, and truly Christian Efforts, of a *very Few*, though undoubtedly august and most powerful Personages; — and should we not, with the most interested Attention, wait the Reception their Measures will meet with, not only from the Priests, but also from the Laity of the Romish Church?

Should we not be cautious of suffering our Minds to be so far dazzled with the Splendor, furrounding these great and beneficent Actions, as to lose Sight

of that bigotted, cruel, and persecuting Spirit, which to the Disgrace of Humanity, has, for so many Ages characterized, and marked with Infamy, the Church of Rome?

Before we place too great a Confidence in her, would it not be prudent in us, to wait till she has given more lasting and general Proofs, of her Conviction of her former Iniquities and Inhumanities, than she has yet *even* had it in her Power to give?

And Lastly, Ought we too hastily to attribute to an Alteration, in the Temper and Spirit of that Church, the late Measures taken abroad—which owe their Origin solely, to the penetrating, extensive, and benevolent Views, of one great and extraordinary Mind—The EMPEROR of GERMANY?

I MUST here however entreat the Reader, not to apply these Reflections to the Act lately passed, with relation to Popery at Home, (which appears to me to have been very unnecessarily the Occa-
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sion of great Differences and Confusions) as they arise from a very different Cause: and allude chiefly, if not solely, to the very strange and extensive Privileges and Powers, granted to Papists in *North America*, by the *Quebec Act*. For so far am I from being an Enemy to, nay so much am I a Friend to Toleration in general, that I could wish to see it extended to those of every Sect and Persuasion; and its Limits only bounded by the *Safety* of our own Religion and Government. But I own, in those Countries where such extensive Privileges have been granted, I have my Doubts, whether they are perfectly consistent with the Safety of either.

I THINK also the Credit given to the collective Body of Roman Catholics for the sudden and extensive Reformation making in some Parts of *Europe*; and the Trust reposed in them as a Body; ought to be in exact Proportion to the Temper, Disposition, and Willingness, with which that Reformation is received by the Bulk of those People;—and the Effect

Effect is has likewise on other Roman Catholick Powers—Events which Time only can unfold.

IN the Settlement of a Peace with *America*, if the Province (or only a small Part of what is included under the Name of the Province) of *Quebec*, should remain as a Part of the British Dominions, it may probably be judged not improper, to revise and examine the late Act for the Settlement of that Country.

INDEED from the Character and Conduct of the * present Administration, it is almost impossible to conclude otherwise. Founded as they are, on Principles the most comprehensive, just, and enlightened; an Administration, improving the Blessings of Government at Home—with a Generosity, hardly paralleled in History, extending those Blessings to *Ireland*—cautiously enquiring into the Complaints, and disposed to redress the Injuries of the remotest Subjects of the British Empire—diffusing like the Sun, their genial and propitious Influence to every Corner, to every Quar-

* Lord ROCKINGHAM's, May, 1782.

ter of the Globe, where that Influence can penetrate or extend. It would be inconsistent with such Conduct, it would be unjust to such Characters, to suppose even for a Moment, that they would suffer the Canadians to remain a single and solitary Instance, of a People subjected to Laws and Institutions, so very different from, and so greatly inferior to, those Laws by which every other Part of the British Dominions are governed.

WITH such an Administration to advise and execute, with such a Representative to second and support, there are scarce any Measures that can truly conduce to the Welfare and Happiness of the Subject, which may not reasonably be expected. And if it is within the Reach of human Abilities, to repair or retrieve those Losses and Calamities, which have so closely pursued, and so nearly overwhelmed us ; that Blessing may be expected from such an Union of Integrity, Publick Spirit, and Abilities, as his Majesty in compliance with the earnest Requests of his People, has been most graciously pleased to call forth. For
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which Instance of his paternal Goodness and Wisdom, is is most devoutly to be wished, that he may reap the just and full Reward:—that his Reign may be long and prosperous—and that he may live to behold the natural and ancient Enemies of his Family, Crown, and Dominions, reduced to sue for, and accept of just and equitable Terms of Peace. An Event, which if natural Means can bring about, I know of none more likely to accomplish, than such a Ministry supported by the united Efforts of a free, brave, and grateful People.

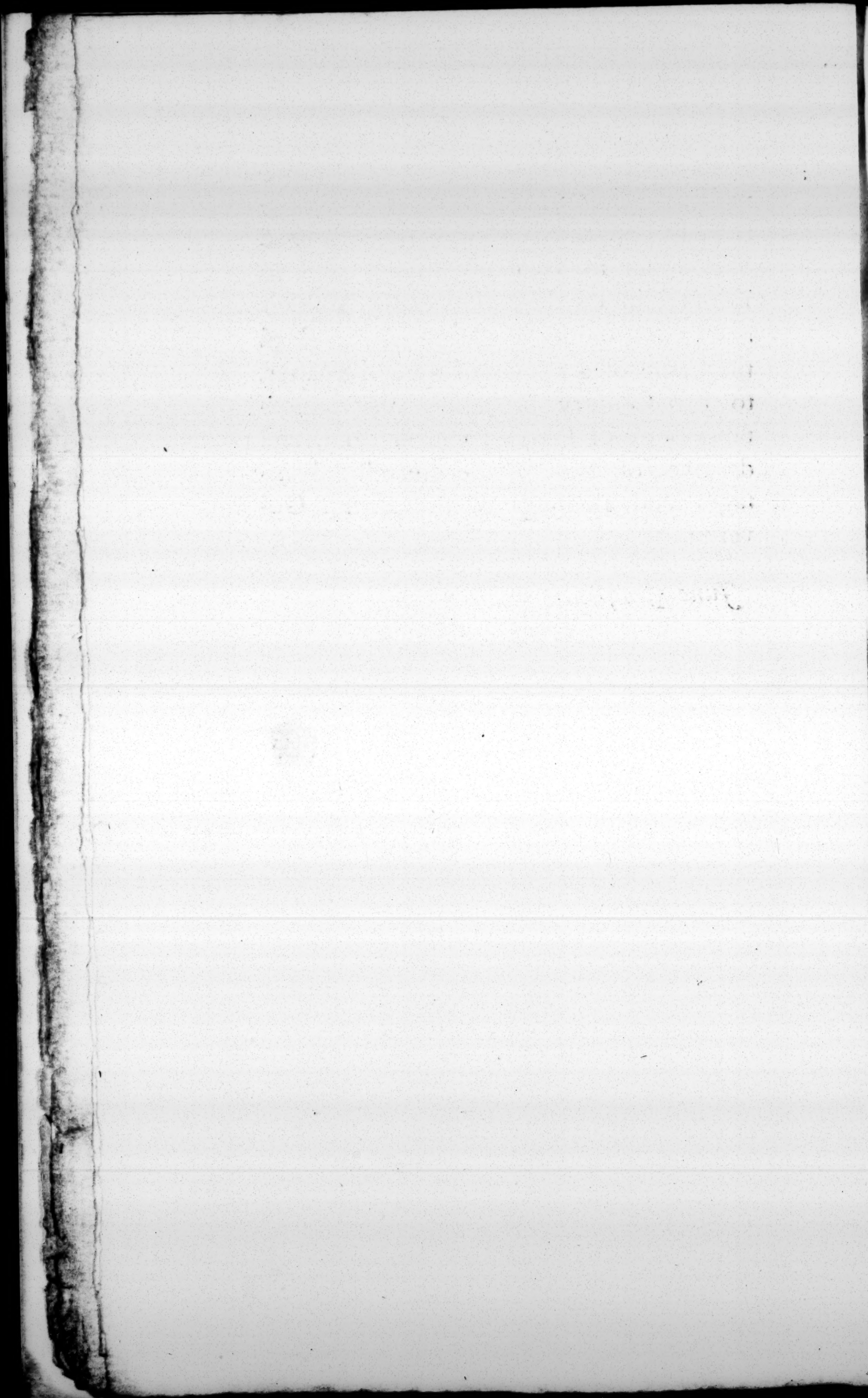
THE late great and happy Change in the political State of this Country, will I trust, apologize to my Reader for this short Digression.

I HAVE nothing further to add, but the Confession, that, to that Change and the consequent Alteration of Measures it is owing, that this Performance ever saw the Light.

PRINCIPLES of Government the most liberal having been adopted, and the Canadians

nadians living under such as were extremely opposite, it was natural to a Wellwisher to Mankind, to a Friend to Liberty, in the best Manner his Abilities and Opportunities would permit, to plead the Cause of a numerous (and hereafter, to this Country probably, very important) Body of People: cut off from, and deprived of, some of the greatest Advantages and Blessings of the British Government.

June 4, 1782.



OBSERVATIONS,
AND
REFLECTIONS &c.

QUEBEC was a French Province in *North America*, about six Hundred Miles in Length, and two Hundred in Breadth. I mention this Particular because under the present Name of that Province, an Extent of Country has been included two Thousand Miles in Length, and in some Parts almost as much in Breadth. I speak within Compass; and it is not one of the smallest Objections against this Bill, that so vast an Extent of Country is included in it, as the Reader will perceive by what follows. *Quebec* contains about a Hundred and Twenty Thousand french Inhabitants, was conquered by us in the last War, and given up to us by the Peace. And as

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it is now extended by the late Act lies behind, or on the Back of most of our Protestant Colonies, and excludes their Inhabitants from settling onwards in an immense Tract of one of the finest Countries in the World. As this Country was conquered by us, I will relate what we were obliged to do, first, by the Capitulation in 1760; and secondly, by the Treaty of Peace in 1763.

By the 42nd Article of the Capitulation, the french General expressly demanded, “ That they should continue to
 “ be governed according to the Custom
 “ of *Paris*, and the Laws and Usages e-
 “ stablished by that Country; and that
 “ they should not be subject to any other
 “ Imposts than those which were esta-
 “ blished under the french Dominions. To this Demand Sir JEFFERY AMHERST returned for Answer, “ That they became
 “ Subjects to the King.

By this it appears, that, that able General reserved a Liberty to the Crown, to change the Laws and Usages, as well as to lay new Imposts, or Duties on
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the Inhabitants. These Powers were neither lessened nor restrained by the Treaty of Peace in February, 1763; which provided for the Toleration (Note, the *Toleration only*, not the *Establishment*) of the popish Religion in that Province, and made no mention either of Laws or Imposts. Consequently in October following, when the royal Proclamation was issued, the Government was *then* at Liberty to make new Laws, or to impose new Duties. By this Proclamation, the Subjects of *Great Britain* and *Ireland*, and all other his Majesty's protestant Subjects, were invited to enter into, and settle in this new Province, as well as in the other Conquests, under the royal Promise that they should be governed as the other Provinces in *America* were: i. e. by a Governor, Council, and Assembly of the Freeholders or Planters, (which latter answers to our House of Commons;) and also that they should have and enjoy the immediate Use of the Laws of England.

Now let us see what the Proclamation says, " And in the mean Time, and

“ untill such Assemblies can be called as
 “ afore said, all Persons inhabiting in or
 “ resorting to our said Colonies, may con-
 “ fide in our royal Protection, for the
 “ Enjoyment of the Benefit of our Laws
 “ of our Realm of England; for which
 “ Purpose we have given Powers under
 “ our great Seal to the Governors of our
 “ said Colonies respectively, to erect and
 “ constitute with the Advice of our said
 “ Councils, respectively, Courts of Judica-
 “ ture and public Justice within our said
 “ Colonies, for the Hearing and Determin-
 “ ing all Causes, as well criminal as ci-
 “ vil, according to Law and Equity, and
 “ as near as may be agreeable to the Laws
 “ of England; with Liberty to all Per-
 “ sons who may think themselves aggriev-
 “ ed by the Sentence of such Courts, in
 “ all civil Cases, to appeal under the u-
 “ sual Limitations and Restrictions to us
 “ in our Privy Council.

So far the Proclamation; by which it
 appears very plain that Assemblies and
 Juries, and the Habeas Corpus Act, were
 promised in due Time, and all other Pri-
 viledges as Englishmen, immediately.

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In consequence of this Proclamation many English Protestants settled in the Province of *Quebec*, and twenty or twenty-five Thousand others (drawn thither by the Pleasantness of the Climate and Fertility of the Soil) had previous to the Proclamation settled in that Part of the Country which lies between the two great Rivers, the *Ohio* and the *Mississipi*; and near those Parts where the former discharges itself into the latter. Which Country, though it was formerly no Part of *Canada*, and lies above a thousand Miles distant from the City of *Quebec*, is now by this Act included in, and made a Part of that Province.

ALL these British Subjects in consequence of the Proclamation, expected to enjoy the Liberties and Privileges of Englishmen, both as to Laws and Religion. But by this Bill the Benefit of the Habeas Corpus Act, the infinite Benefit of having all civil Matters tried by Juries (that is by their Equals) are totally annihilated, and the popish Religion is *established*, contrary to the express Words of the Proclamation, as appears above; and which was required neither by the *Capitulation* nor *Treaty*. For by
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this Act the Roman Catholic Religion, and the french Laws in civil Matters, are established throughout this immense Tract of Country ; and the Canadians themselves deprived of the two greatest Blessings an Englishman enjoys so far off; the Trial by Juries, and of the Habeas Corpus Act totally. Instead of which their Causes are now to be tried by a single Judge, or by Persons appointed by the Crown. And in Cases of Imprisonment, a Man loses the Privilege of demanding to be carried before a Judge ; — of being informed whether he is *lawfully imprisoned* or not ; and in the latter Case of being immediately discharged ; (one of the great Bulwarks of Innocence in a low Sphere, against the arbitrary and high-stationed Oppressor,)—instead of which, he must now lie in Prison, untill he is freed by a Goal-delivery. Thus far even the *Roman Catholics* are Sufferers. But the Case of the Protestants is still harder, for all those who have settled, or shall hereafter settle in that vast and extensive Country (which is computed to be capable of containing thirty Millions of Inhabitants) are not only deprived of the above Benefits, but also of the
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Establishment of their own Religion.

My Reader may begin to think this a strange Story; but I will tell him one Thing stranger still — *It is a true one.* He will probably ask, What could induce the Legislature to pass such a Bill as this? The chief Reasons which have been urged in Defence of it are, Favour and Indulgence to the Canadians. Whether this Bill can spring from such Motives, my Readers will be able to judge by the Sequel.

THERE *were a few Particulars* which the Canadians were apprehensive of, and in those Respects were desirous of retaining their *ancient Laws.*

1st, They requested that the Laws of Inheritance and Dower, the Descent of Lands, and the Methods of conveying them, might remain as they were: for these were Points in which, if the English Laws had been immediately introduced, they would have occasioned great Uneasiness and Confusion.

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2ndly, They desired also to have their own Laws restored, so far as the new Laws excluded Papists from Posts of Trust.

3dly. They were apprehensive that if an Assembly had been established, they, as Roman Catholics would not have been permitted to have composed a Part of that Assembly ; and also, that in that Case they should have been obliged to have borne the Expence of their own civil Government. For which Reasons they were at present rather averse to an Assembly ; but still preferred even an Assembly composed by Protestants only, to being governed by a Council alone—as a Canadian Gentleman who was examined before the House of Commons, confessed. But they did by *no Means wish for the perpetual Exclusion* of an Assembly.

THESE were the chief Points in which the Canadians wished to retain their ancient Laws and Customs ; and might not the Benefit of the Habeas Corpus Act, and of Juries, and even the Establishment of the protestant Religion have been allowed

lowed them, in perfect Consistency with all these?—certainly they might.

To proceed to the Bill — to gratify them (or under pretence of gratifying them) in these Points, they are undoubtedly by this Act left in Possession of their ancient Laws of Inheritance and Dower, and the Government by a Council is established: but the Laws of *France* in all civil Matters, are also wholly established; by which they are not only deprived of the Benefit of the Habeas Corpus Act, as I have observed above, but they, and those who trade with them, are also deprived of the Benefit of Trials by Juries in all commercial Cases; in Reliance on the Benefit and Advantages of which, the *London* and *Quebec* Merchants have given the Canadians such Credit, that their Exports have increased within these few Years,* to three Times the Value they were of formerly. The Laws which I allude to on this Head, are—those of Insurances—Bankruptcies—the Limitation of Actions—the Process of Im-

* 1774

prisonment for Debts—and the Trial of Matters of Contract, where the Cause of Action is of a commercial Nature (as well as of all Matters of Injury in all Cases) by a Jury. These might certainly have been retained without Injury to the Canadians. As to the Article of Juries, the Privilege even of the Option of one was denied them, though they had enjoyed that Indulgence ten preceding Years, and though that Favour was pleaded for with all the Powers of Eloquence, and enforced by the strongest Arguments in the House of Commons, by Mr. BURKE. And with regard to the Habeas Corpus Act, though it was earnestly contended for by a very worthy Member, yet it was rejected without assigning any Reason, and *almost* with Contempt.

On the Head of Assemblies—this Act of Parliament has directed that the Canadians shall be governed by a Council to be appointed by the Crown: so that even the distant Prospect with which they might have flattered themselves, of having one Day a Share in the Direction of
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their own Affairs (a Power which every Man must naturally wish for) is now entirely vanished. And their temporary Dislike of an Assembly, from which they, as Roman Catholics were fearful of being excluded, is made the Pretence for depriving them of all future Possibility of ever enjoying the Blessing of that Form of Government.—These are some of the Indulgences bestowed on the Canadians by this Act.

FROM the preceding Account, a Number of Reflections will naturally arise in a considering Mind; and those not of the most cheerful or agreeable Cast. — What a melancholy Circumstance it is to reflect, that, by the Establishment of the popish Religion, an Opening is made to Jesuits, to other popish Priests, and to Papists of all Denominations, to enter into, and take Possession of this Country. On the Contrary, had Popery only been tolerated, and Protestantism established (which as appears above, would have infringed neither the Articles of Capitulation nor of the Treaty) a Number of Protestants, of which there are perhaps

near a Million in *France** would probably at Times have passed over thither, and helped to counterbalance the Strength and Number of their popish Countrymen. These People, with the English who would naturally have continued settling there, would in a very few Years have formed a sufficient Number of Protestants to have served on Juries, and to have composed an *Assembly*) or House of Commons) wholly Protestant; without the Necessity of admitting even one *Papist*. The Priests as they had died off, might have been supplied from *England* with Divines of our own Church; and as we use the Cross in Baptism, the Surplice &c. in Divine Service, it would not have been so violent a Transition; and a People easy and happy in their temporal Concerns, would probably by Degrees have been weaned from Popery.—I speak with some Authority—as knowing it was the Expectation of some of the Canadians, and that they were not much displeased with the Thoughts of it. Add to this, had some little Advantages been thrown

* Wrote in 1774.

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in the Way of the Papists, to have inclined them towards Protestantism (which might have been done without the least Degree of Hardship to those, who still chose to continue Roman Catholics) this probably would have put some of them on thinking and enquiring ; and could those two Points have *been once obtained*, could they have been brought into such a Train, their Conversion would have been half compleated ; as to any reflecting Person, the infinite Superiority of the protestant over the popish Religion, and the endless Absurdities of the latter, must soon appear.

ALL these Blessings and Advantages are irremediably, and (I must add) unnecessarily lost and thrown away : as a Toleration of Popery would have completely answered all that we were either in Justice or Honour bound to do, by the Terms both of the Capitulation and Peace. A Continuance of the french Laws of Dower and Inheritance, and a temporary Establishment of a Council, would have perfectly satisfied these People, *without* depriving both the present and future Inhabitants

habitants of this immense Country of so many of the Blessings and Privileges of Englishmen ; and without rescinding, annulling, and rendering void the Proclamation.

IN short, instead of encouraging the French Protestants, or our own protestant Subjects, we have discouraged them ; and invited Papists. Instead of giving these People a free and equal Government ; we have sett ed a despotic Government, by a President and Council of Seventeen : which (for ought that is said or implied to the Contrary) may consist of Seventeen People, wholly uninterested in the Welfare of the Colony. Instead of leaving these People the invaluable Privilege of making their own Laws ; they are to have their Laws made for them, by the Governor and this Council, all of whom will at best be Dependants on the Crown ; and probably subservient to the Governor, and may have very little, either Interest in, or Connection with the Province. Instead of giving Liberty and Freedom to the Canadians, and thereby a Taste of the Blessings of English Government ; we have not only enslaved them, but reduced

duced many Thousand *English* now living within the Bounds of that Province, to the same Condition. Instead of giving Encouragement to the English Protestants to settle in that vast extensive, and fruitful Country; we have greatly discouraged them from settling, and as far as we are able, by this Act of Parliament taken Care that it shall become a Nation of Papists and Slaves.

THE Question now naturally occurs, Can all this be done for the Sake of the Canadians? or, even admitting a most absurd Supposition, that this Form of Government would be more beneficial to them, than the Liberty of Enjoying the Laws of *England*, yet why should such an immense Tract of so fine a Country, (where Canadian scarce ever yet set his Foot) be subjected to so wretched a form of Government as this, and be devoted to the pernicious Purpose of extending the baleful Influence, of that absurd and persecuting Religion? No; it can never be for the Sake of the Canadians; and I cannot help thinking, that what dropped from a very able Speaker in the House
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of Commons, and who was almost the only one who supported this Bill in the Way of Argument in that House, will give us a better Clue to unravel this mysterious Business.

“ It is an Admonition (said that Gentleman) to the Inhabitants of the other Colonies, not to go and settle in this new Province, lest they should become subject to a Government they will not like, to Laws which they do not know, and to live amongst a People *professing a Religion they do not approve.*” This is the only Thread to lead us out of this Labyrinth, and to account for this wonderful Phænomenon in Politics—A FREE PROTESTANT GOVERNMENT, ESTABLISHING POPERY AND SLAVERY.

THE Administration* are jealous of the American Protestants, they wish to confine them within as narrow Bounds, and to keep them at as great a Distance from the Canadians as possible. They

* The Ministry of 1774.

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wish to preserve the latter as a Kind of Check and Controul over the former, which must necessarily induce those People to look upon the Canadians with a jealous Eye; as a Guard kept over them and ready on every Occasion to execute the Mandates of an arbitrary Administration. But as the Protestants are above two Millions, and the Canadians not above a sixteenth Part of that Number, should our present unhappy Differences with the Colonies (which God in his infinite Goodness avert) terminate in disuniting any Part of *America* from *Great Britain*, and leaving them independent States, is it improbable that the very first Expedition they would undertake, would be the Conquest of Canada; as they would probably look upon the People of that Province, both from their Form of Government and Religion, and from the obvious Uses which might be made of both, as their natural Enemies? * And should the Expedition succeed, what Treatment could the Canadians expect? Nothing less than a jealous Exclusion

* They did so in 1776.

from Posts of Trust and Profit—a Change of the Laws and Customs of their Country—and in fine, a sudden and violent Alteration in their whole Constitution, in a much rougher Manner than would have been done by the Authority of *Great Britain*, if Administration had persevered in their first and more natural Plan of Policy; of bringing the Canadians by insensible Degrees, to a Resemblance of the other Subjects of the Crown, in Religion, Laws, and Government. And it is almost unnecessary to ask, whether this can be for the Benefit of the Canadians?

THESE, and a Thousand other natural and obvious Reflections arise from the Tendency of this unfortunuate Bill. Against which, though many other Objections might be brought, yet I believe Enough has been said to convince my Readers, of the absolute Necessity of Repealing it; and of establishing the Province under some better Form of Government.

As the different Provinces in *America* were in general at Variance with each other,

other, and Friends to *Great Britain* before the late unhappy Measures were adopted; which, as they were the Offspring of narrow confined Views in Politics; and have been, and still are attended with such fatal Effects in both Countries; I can see no Reason why we may not expect a Change in them, and that better and more salutary Measures will at Length be pursued. And as there may yet * be found on both Sides of the *Atlantic*, Temper and Wisdom sufficient to establish on a solid Foundation, a firm and lasting Friendship between both Countries, so much to the mutual Advantage of both; should this happy *Æra* once arrive (and should it not, adieu to the Grandeur, Prosperity, and Power of *Great Britain*) and the Americans should once more return to that Affection and Regard to their Mother Country, which before these unhappy Proceedings they always bore towards her—what Occasion, what *possible Pretence* can there remain for the Continuance of this unconstitutional Bill?

* In the Year 1774, before the first Gun was fired, in this ruinous, unfortunate War,

Which—

Which—as Friends to *Great Britain*, to the Colonies, nay even to the Canadians themselves ; as Friends to Reason, Liberty, and true Religion ; I cannot doubt but every Englishman, every true Protestant, will most sincerely join with me in wishing to behold that Day, which shall bring with it it's total and absolute Repeal.



F I N I S

